IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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D.B. CIVIL SPECIAL APPEAL NO.723/1998

Rajasthan Agricultural University

Versus

Narendra Singh Shekhawat

Date of Order : 23.3.2006

PRESENT

HON'BLE MR.RAJESH BALIA, J.
HON'BLE MR. JUSTICE R.P. VYAS

Mr.Narpat Singh, for the appellant
Mr.A.K. Singh, for the respondents.

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Heard the learned counsel for the parties.

This appeal is directed against the judgment of the learned Single Judge dtd.20.5.1998 by which the date with effect from which the petitioner was allowed to draw pay scale in revised pay scale on regularisation was modified from 4.2.1993 to 12.3.1992. This was done in view of division Bench judgment of this Court in group of Special Appeals (Rajasthan Agricultural University v/s Srikant Modak and other connected appeals) decided on 8.3.1995. In the said appeals, the Division Bench has taken note of earlier decision rendered in the case of Dilip Bhatnagar and

ors. V/s Rajasthan Agriculture University, Bikaner (S.B. Civil Writ petition No.2922/1990) decided on 4.4.1994 along with six similar writ petition. Said judgment was upheld by the Division Bench of this Court in D.B. Civil Special Appeal No.219/1994 decided on 24.8.1994. By referring to these judgment, the Division Bench directed that those persons whose services have been regularised shall be paid the regular scale from the date of filing of the earliest writ petition and the same benefit was extended to the appellants before the Division Bench.

The petitioner has been granted the benefit of regularisation and regular pay scale with effect from the date of filing of his writ petition that was 4.2.1993. The writ petition filed by the petitioner was decided earlier than the decision rendered by Division Bench. As a result of Division Bench decision, by granting regular pay scale from the date earliest writ petition, persons junior to the petitioner came to draw pay in revised pay scale regularly from the date earlier than the date of filing of writ petition by the petitioner because writ petition filed by junior to him happened to be filed earlier than him. Just to get over this anamoly, this writ petition was filed by the petitioner.

The learned Single Judge considering the judgment of Division Bench has granted the relief by modifying the date of drawing regular pay scale on regularisation from 4.2.1993 to 12.3.1992.

The only contention before us raised by the learned counsel for the appellant is that rule of regularisation applies since the grant of relief. In the case of respondent, he has become entitled to draw pay in regular pay scale under the judgment of this Court which has become binding intra parties. Therefore, this modification cannot be made in this manner.

The contention raised by the learned counsel for the appellant cannot be countenanced. In the present case, as a result of later judgment of this Court, by fixing the date of regularisation from the date of earliest writ petition filed before this Court and persons junior to him have been granted the benefit of regularisation from a date earlier to the respondents. In view of subsequent event vitally altered situation and giving respondent a fresh cause of action vis-a-vis persons junior to him for removing anamoly in pay scale, the principle of res judicata would not be applicable in the present case for the purpose of

considering the relief which the petitioner was claiming as a result of subsequent event.

No other ground has been raised before us. We do not find any force in this appeal and the same is hereby dismissed.

No order as to costs.

(R.P.VYAS),J. **(RAJESH BALIA)J.**

SS/-